

REMARKS

In accordance with the foregoing, claim 1 has been amended. Claims 1-5 are pending and under consideration. Claims 6-20 are withdrawn from consideration.

The Examiner's statement at page 2 of the Office Action regarding the Drawings is acknowledged. Applicants note that items 8 and 9, shown in Fig. 1, are described at paragraphs 31 and 33 of the Specification, respectively.

The rejection under 35 U.S.C. § 112 is overcome by the present amendments.

The rejections under 35 U.S.C. § 102 are respectfully traversed.

With respect to Hedenberg, it is respectfully submitted that this reference does not disclose a rotation sensing part connected to the drum driving part to rotate therewith and sensing rotation positions of the holder of the upper kneading drum. This reference teaches a temperature sensor 103 and photocells 101 to detect a rise level of dough. However, the sensor 103 and photocells 101 are not connected to the drum driving part to rotate therewith, as claimed.

With respect to Lee, the Examiner states that the claimed functions do not result in any structural differences. However, there is nothing intrinsically wrong with the use of functional claim language. *In re Swinehart and Sfiligoj*, 169 USPQ 226 at 228. However, where the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on. *Id.* at 229.

It can be inferred from *In re Swinehart and Sfiligoj* that functional distinctions can distinguish over the prior art, provided that the applicant can prove the prior art does not possess the relied-upon feature. In Lee, there is no teaching that when an initial power is supplied, the upper kneading drum is rotated by a predetermined angle to make the holder of the upper kneading drum stop within a predetermined angle range in which the holder of the upper kneading drum faces forward based upon a position sensing signal of the rotation sensing part.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

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Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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